Calendar No. 250

98TH CONGRESS, 1st Session | SENATE | REPORT No. 98-154

THE EDUCATIONAL OPPORTUNITY AND EQUITY ACT OF 1983

JUNE 20, 1983.—Ordered to be printed

Mr. DOLE, from the Committee on Finance, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 528]

[Together with cost estimate of the Congressional Budget Office]

The Committee on Finance, to which was referred the bill S. 528 to provide a Federal income tax credit for tuition, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is shown in the text of the bill in italic.

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S363-6

I. SUMMARY

The bill provides a nonrefundable credit for 50 percent of tuition expenses paid to private elementary and secondary schools for certain qualified dependents of the taxpayer. The maximum credit is $100 in 1983, $200 in 1984, and $300 in 1985 and subsequent years. The maximum credit amount is phased down for taxpayers with adjusted gross incomes of greater than $40,000 and no credit is allowed for taxpayers with adjusted gross incomes of $50,000 or more.

For tuition expenses to be creditable, a school cannot follow a racially discriminatory policy. Eligible schools include only schools that are exempt from taxation under Code section 501(a) as organizations described in Code section 501(c)(3). An eligible school will be required to include a statement of its nondiscriminatory policy in any published by-laws, admissions materials, and advertising, and to file annually with the Treasury Department a statement that it has not followed a racially discriminatory policy. Generally, a copy of this statement also will have to be furnished to each individual who pays tuition to the school and must be attached to any return on which credits are claimed. In addition, the bill disallows credits for payments to any school found to be following a racially discriminatory policy in an action brought by the Attorney General under the bill's declaratory judgment provisions.

The bill generally applies to tuition paid or incurred after July 31, 1983, for taxable years beginning after December 31, 1982; however, no credits will be allowed until either a final decision by the Supreme Court of the United States or an Act of Congress prohibits the granting of a tax exemption under section 501(a) of the Internal Revenue Code by reason of section 501(c)(3) to private educational institutions that maintain a racially discriminatory policy or practice as to students. Credits will be effective on a prospective basis after such final decision or Act of Congress.

The issue of whether schools with racially discriminatory policies may qualify for tax-exempt status was decided recently in *Bob Jones* v. *U.S.*, 51 U.S.L.W. 4593 (May 24, 1983), which held that racially discriminatory schools cannot qualify as tax-exempt organizations under Code section 501(c)(3).

II. EXPLANATION OF THE BILL

A. Present Law

Tax benefits for educational expenses

Special rule for claiming dependency exemption for a child who is a student

In certain cases, taxpayers are entitled to a personal exemption for a dependent, which they otherwise could not claim, because the dependent is a student. A taxpayer may claim a $1,000 personal exemption for each dependent who has less than $1,000 gross income for a taxable year. However, the gross income limitation does not apply if the dependent is the taxpayer's child and is under the age of 19 or is a student (Code sec. 151).

Income tax exclusion for scholarships and fellowships

Individuals generally may exclude from income amounts received as scholarships and fellowships (sec. 117). The exclusion also covers incidental amounts received to cover expenses for travel, research, clerical help, and equipment when those amounts are expended for these purposes. The exclusion for scholarships and fellowship grants is restricted to educational grants by relatively disinterested grantors who do not require any significant consideration (e.g., promises of future services) from the recipient, except in the case of certain Federal grants. Similarly, where an educational institution allows delayed payment of tuition, the Internal Revenue Service regards the tuition postponement to be a loan and, therefore, not includible as income to the student (Rev. Rul. 72-2, 1972-1 C.B. 19).

Deduction for "job-related" educational expenses

Education expenses which qualify as trade or business expenses under Code section 162 may be deducted in determining income tax liability. Expenditures made by an individual for his or her own education generally are deductible if they are for education which (1) maintains or improves skills required by the individual's employment or other trade or business or (2) meets the express requirements of the individual's employer or the requirements of applicable law or regulations imposed as a condition to the retention by the individual of an established employment relationship, status, or rate of compensation (Treas. Reg. sec. 1.162-5(a)). This type of education commonly is called "job-related" education.

Income tax exclusion for amounts received under educational assistance programs

For taxable years beginning after December 31, 1978, and before December 31, 1983, amounts paid by an employer for an employee's

educational expenses may be excluded from the employee's income if paid pursuant to a qualified educational assistance program (sec. 127). A qualified educational assistance program must be a separate written plan of an employer for the exclusive benefit of employees. The plan also must meet requirements with respect to nondiscrimination in contributions or benefits and in eligibility for enrollment, but it need not be funded or be approved in advance by the Internal Revenue Service. For a program to qualify, the employees must be given adequate notification and must not be able to choose taxable benefits in lieu of the educational assistance.

Benefits which may be provided under such a program include tuition, fees, and similar payments; books; supplies; and equipment. Covered studies need not be restricted to courses which are job-related or part of a degree program.[1] However, an employee claiming an exclusion for benefits provided under such a plan may not claim any other deduction or credit (e.g., a sec. 162 deduction for job-related education) with respect to any excludable benefits.

Other tax provisions of benefit to education

Examples of provisions that benefit education, in general, and sometimes students, in particular, include the exclusion from income of gifts (sec. 102), which may comprise a large portion of a student's support, and the charitable contributions deduction (sec. 170), which allows a deduction for charitable contributions (not tuition payments) to educational institutions. Other provisions, such as the exclusion of interest on State and local government bonds (sec. 103) and the deduction for State and local taxes (sec. 164) indirectly assist publicly supported educational institutions by easing the financial burden on State and local governments.

Effect of racial discrimination on tax-exempt status of private schools

The Internal Revenue Service issued a revenue ruling and a revenue procedure,[2] in 1971 and 1972, respectively, which stated that private schools with racially discriminatory policies as to students would not be recognized as organizations exempt from Federal income tax. These documents also set forth guidelines for determining whether certain private schools had adequately publicized their racially nondiscriminatory policies so as to enable them to qualify for tax-exempt status.

In 1975, the IRS published Revenue Procedure 75-50, 1975-2 C.B. 587, which sets forth guidelines and recordkeeping requirements for determining whether private schools have racially nondiscriminatory policies. This revenue procedure superseded Rev. Proc. 72-54, *supra*.

In general, the 1975 guidelines provide that to obtain recognition of tax-exempt status under section 501(c)(3):

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[1] Generally, however, no exclusion is permitted for educational assistance furnished for courses involving sports, games, or hobbies.

[2] Rev. Rul. 71-447, 1971-2 C.B. 230 and Rev. Proc. 72-54, 1972-2 C.B. 834. These documents were issued in response to *Green* v. *Connally*, 330 F. Supp. 1150 (D.D.C.) aff'd per curiam sub nom., *Coit* v. *Green*, 404 U.S. 997 (1971), which held that racially discriminatory private schools are not entitled to the Federal tax exemption provided for educational organizations and that gifts to such schools are not deductible as charitable contributions by the donors.

(1) A school must include a statement in its charter, by-laws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy as to students and, therefore, does not discriminate against applicants;

(2) The school must include a statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships;

(3) The school must make its racially nondiscriminatory policy known to all segments of the general community served by the school;

(4) The school must be able to show that all of its programs and facilities are operated in a racially nondiscriminatory manner; and

(5) As a general rule, all scholarships or other comparable benefits procurable for use at the school must be offered on a racially nondiscriminatory basis.

Availability of the school's services on a nondiscriminatory basis must be made known throughout the general community being served by the school and should be referred to in the publicity necessary to satisfy the third requirement in order for that school to be considered racially nondiscriminatory as to students.

This revenue procedure also requires that an individual authorized to act officially on behalf of a school which claims to be racially nondiscriminatory as to students must certify annually, under penalties of perjury, that to the best of his or her knowledge and belief the school has satisfied the requirements listed in the procedure.

The 1975 revenue procedure further provides that the existence of a racially discriminatory policy with respect to employment of faculty and administrative staff is indicative of a racially discriminatory policy as to students, while conversely, the absence of racial discrimination in the employment of faculty and administrative staff is not indicative of a racially nondiscriminatory policy as to students. Failure to comply with the guidelines set forth in Revenue Procedure 75-50 ordinarily results in the proposed revocation of the tax-exempt status of a school.

Through provisions enacted as part of annual appropriations legislation, effective through September 30, 1982, Congress barred the Internal Revenue Service from developing or carrying out any rulings, procedures, or other positions concerning tax-exemption for racially discriminatory private schools beyond those that were in effect prior to August 22, 1978.[3]

The issue of whether schools with racially discriminatory policies may qualify for tax-exempt status was decided recently in *Bob Jones* v. *U.S.*, 51 U.S.L.W. 4593 (May 24, 1983), which held that racially discriminatory schools cannot qualify as tax-exempt organizations under Code section 501(c)(3).

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[3] These provisions were enacted in response to the fact that on August 21, 1978, the Internal Revenue Service announced prospective publication of a revenue procedure intended to revise administrative guidelines for determining whether a private school operates in a racially discriminatory manner. As a result of the reopening of litigation in *Green* v. *Connally*, supra, and *Wright* v. *Miller*, 480 F. Supp. 790 (D.D.C. 1979), rev'd sub nom., *Wright* v. *Regan*, 656 F. 2d 820 (D.C. Cir. 1981), the IRS had concluded that its prior revenue procedures had not been effective in identifying schools that were discriminating on the basis of race, even though they had professed an open enrollment policy and had complied with the requirements of Revenue Procedure 75-50.

B. Reasons for Change

The committee is concerned with the rising cost of tuition at private elementary and secondary schools. At the same time, the cost of public schools is rising and taxes continue to increase to meet this cost. Parents who send their children to private schools, however, relieve the public schools of the cost of educating their children. The committee believes that such parents, who must pay for the increased costs of both public and private schools, should receive tax relief for this double burden of their children's educational expenses.

The committee also believes that private schools represent an integral part of American society, reflecting the diversity of the country, and providing citizens with important opportunities to obtain the education they deem best suited to their individual needs and family values. By assisting citizens to select and pay for private school education, the tax relief provided by this bill should reinforce and sustain the Nation's historic pattern of diversity in education. The committee also believes that the existence of affordable alternatives to public education tend to strengthen public education through diversity and competition. This should improve educational opportunities for all Americans.

The committee believes, however, that the tax benefits provided under the bill should not be available with respect to racially discriminatory schools. The committee intends that the special nondiscrimination provisions of this bill supplement the nondiscrimination standards that must be satisfied in order for a private school to obtain Federal tax exemption. Neither the substantive nondiscrimination standards of the bill nor its enforcement procedures, are intended to create any inference with regard to the nondiscrimination standards or enforcement procedures that may be applicable under present law.

The issue of whether schools with racially discriminatory policies may qualify for tax-exempt status was decided recently in *Bob Jones* v. *U.S.*, 51 U.S.L.W. 4593 (May 24, 1983), which held that racially discriminatory schools cannot qualify as tax-exempt organizations under Code section 501(c)(3).

C. Explanation of Provisions

Congressional findings

The bill contains a policy statement that sets forth several propositions that are based upon a Congressional finding that it is the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. This policy statement concludes that the primary purpose of the bill is to enhance equality of educational opportunity, diversity, and choice for all Americans, and that the bill will expand opportunities for personal liberty, diversity, and pluralism, which constitute important strengths of education in America.

Credit for tuition expenses

Under the bill, an individual is allowed to claim a nonrefundable tax credit for 50 percent of the tuition expenses paid during the

taxable year to one or more eligible private educational institutions for certain dependents who are under age 20 at the close of the taxable year in which the expenses are paid and with respect to whom the individual is permitted to claim dependency exemptions. Provided that over half of his or her support is received from the taxpayer, the payment of tuition expenses for (1) a son or daughter (including an adopted child) or a descendant of either, (2) a stepson or stepdaughter, (3) a brother, sister, stepbrother, or stepsister, (4) a son or daughter of a brother or sister, or (5) an individual (other than the taxpayer's spouse) who has as his or her principal place of abode the home of the taxpayer and who is a member of the taxpayer's household will qualify for the credit. Except for the taxpayer's children, these individuals must have less than $1,000 of gross income for the calendar year in order to be claimed as dependents.

Eligible educational institutions and qualified tuition expenses

The credit will be available only with respect to tuition paid to certain educational institutions. An educational institution must meet a number of requirements in order for tuition paid to it to be a creditable expense.

First, the institution must provide a full-time program of elementary or secondary education. While, ordinarily, a vocational high school that offers a regular academic secondary school curriculum in addition to vocational courses will qualify, a school that offers only vocational courses, such as stenographic courses, will not.

Second, the institution must be a privately operated, not-for-profit, day or residential school. The school also must be exempt from taxation under Code section 501(a) as an organization described in section 501(c)(3).[4] Under the bill, church schools that currently are exempt from the requirement that they notify the Internal Revenue Service of their applications for recognition of tax-exempt status will continue to be so exempt.

Third, while the bill does not require a private school to have bylaws, advertisements, admission application forms, or other such publications, if an institution does have any such publications, it must include a statement that the institution does not discriminate against applicants or students on the basis of race in those documents. The form or manner for making this statement is to be prescribed by Treasury regulations. Forms, brochures, and other publications printed before the effective date of this bill, but distributed or used after that date, must be amended or "stickered" with an appropriate statement of nondiscrimination.

Tuition expenses eligible for the credit are tuition and fees paid for the full-time enrollment or attendance of a student at an educational institution, including fees for courses. However, amounts paid for (1) books, supplies, and equipment for courses of instruction; (2) meals, lodging, transportation, or personal living expenses; (3) education below the first-grade level, such as attendance at a

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[4] These are organizations that are organized and operated exclusively for religious, charitable, educational, or other enumerated purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual and which meet certain other specified requirements.

kindergarten, nursery school, or similar institution; and (4) education beyond the twelfth-grade level are not eligible for the credit.

Limitations on credit amount

The credit will be subject both to a maximum dollar amount and a phase-out based upon the amount of a taxpayer's adjusted gross income. Both the maximum dollar amount of the credit and the maximum phase-out rate will be phased in over a three-year period.

The maximum credit allowable to a taxpayer with respect to tuition expenses paid on behalf of each dependent will be:

(1) $100 in the case of tuition expenses paid or incurred after July 31, 1983, in taxable years beginning in 1983;

(2) $200 in the case of tuition expenses paid or incurred after December 31, 1983, in taxable years beginning in 1984; and

(3) $300 in the case of tuition expenses paid or incurred after December 31, 1984, in taxable years beginning in 1985 or later.

Any tuition tax credits available to any taxpayer may not be taken into account in determining the estimated tax of such taxpayer for any taxable year beginning before January 1, 1984, or in determining the number of withholding exemptions to which any taxpayer is entitled with respect to remuneration paid before January 1, 1984.

The maximum credit amount will be reduced by a specified percentage of the amount by which a taxpayer's adjusted gross income for the taxable year exceeds $40,000 ($20,000 in the case of a married individual filing a separate return). The phase-out rate will be 1.0 percent for taxable years beginning in 1983; 2.0 percent for taxable years beginning in 1984, and 3.0 percent for taxable years beginning in 1985 and thereafter. These phase-out percentages are doubled for married individuals filing separate returns. Thus, a taxpayer with adjusted gross income of $50,000 or more ($25,000 in the case of a married individual filing a separate return) will receive no tax credit.

Special rules

Under the bill, otherwise eligible tuition expenses will be reduced by certain amounts paid to the taxpayer or his or her dependents. These amounts are: (1) amounts received from tax-free scholarships or fellowship grants; (2) certain veterans' benefits; and (3) other tax-exempt educational financial assistance (except for excluded gifts, bequests, devises, or inheritances). If the scholarship is paid directly to the school and the school sends a bill for tuition to the taxpayer that is net of the scholarship, the taxpayer is not deemed to have been paid the scholarship; the scholarship is excluded from the computation of tuition expense.

Nondiscrimination requirements

No tax credit will be permitted for tuition payments to schools that follow racially discriminatory policies.

Under the bill, an educational institution is considered to follow a racially discriminatory policy if it refuses, on account of race, (1) to admit applicants as students; (2) to admit students to the rights, privileges, programs, and activities generally made available to stu-

dents by the educational institution; or (3) to allow students to participate in its scholarship, loan, athletic, or other programs. A racially discriminatory policy does not include failure to pursue or achieve any racial quota, proportion, or representation in the student body. The term "race" includes color or national origin.

A school will be required to file annually with the Treasury Department a statement declaring that it has not followed a racially discriminatory policy, and also indicating whether a judgment declaring that the school has followed a racially discriminatory policy is in effect. The statement also must indicate whether the school has complied with the requirement that it include a statement of nondiscriminatory policy in its published by-laws, application forms, advertising, etc. Except as otherwise provided in Treasury regulations, a copy of the nondiscrimination statement filed with the Treasury Department must be furnished to each person who pays tuition to the school, and a taxpayer claiming the credit must attach a copy to his return. It is anticipated, for example, that regulations may provide that such statement need not be provided to parents who certify to the school that they will not claim a credit for tuition paid to such school.

Declaratory judgment proceedings

The bill provides that, upon the filing of an appropriate pleading by the Attorney General, the district court of the United States for the district in which a school is located will have jurisdiction to make a declaration with respect to whether such school follows a racially discriminatory policy. This declaration will have the force and effect of a final judgment of the district court and will be reviewable as such.

Under the bill, the Attorney General is authorized and directed to seek a declaratory judgment against a school after receiving a written allegation of discrimination filed by a complainant against the school and finding good cause. This written allegation must allege with specificity that the school has committed a racially discriminatory act against a student applicant or a student within one year preceding the date on which the allegation is made, or that the school has made a communication within one year preceding the date on which the allegation is made expressing that the school follows a racially discriminatory policy.

The Attorney General is required, upon receipt of a written allegation, promptly to notify the school, in writing, of the existence of the allegation. Before commencing a declaratory judgment action, the Attorney General also is required to give the school a fair opportunity to comment on the allegations made against it by the complainant and to show that the racially discriminatory policy alleged in the written allegation either does not exist or has been abandoned.

If the Attorney General decides not to seek a declaratory judgment against the school, he or she must make available to the complainant the information on which the decision was based, including any relevant information submitted by the school. The Attorney General is not required or authorized, however, to make available any information the disclosure of which would violate any Federal or State law protecting personal privacy or confidentiality.

The Attorney General must also notify the complainant of the availability of this information.

The bill provides that a district court may declare that a school follows a racially discriminatory policy, in a declaratory judgment action, only if the Attorney General establishes that:

(1) The school has, pursuant to such policy, committed a racially discriminatory act against a student applicant or student within the two years preceding commencement of the action;

(2) The school has, within two years preceding commencement of the action, made a communication expressing that it follows a racially discriminatory policy against student applicants or students; or

(3) The school has engaged in a pattern of conduct intended to implement a racially discriminatory policy, and that some act in furtherance of this pattern of conduct was committed within two years preceding commencement of the action.

Any district court that makes a declaration that a school follows a racially discriminatory policy will retain jurisdiction of the case.

Instead of filing a declaratory judgment action, the Attorney General may, at his or her discretion, enter into a settlement agreement with a school against which an allegation of discrimination has been made. However, before doing so, the Attorney General must find that the school had been acting in good faith and has abandoned its racially discriminatory policy. A copy of any settlement agreement must be furnished to the complainant whose allegations resulted in the Attorney General's investigation. If the school violates the settlement agreement, then no subsequent allegation need be filed before the Attorney General can initiate a declaratory judgment proceeding, or bring an action to enforce the terms of the settlement. The committee anticipates that settlement agreements may provide that a violation of the terms of the settlement will constitute an act in furtherance of a pattern of conduct intended to implement a racially discriminatory policy. Thus, violation of the terms of a settlement could lead promptly to a declaratory judgment disallowing tax credits for tuition paid to the school.

In describing the requirements for making an allegation of discrimination, the requirements for prevailing in a declaratory judgment action against a school, and other requirements, the bill's references to a communication made by a school are intended to include communications of employees, officers, or agents of the school that express that the school follows a racially discriminatory policy. In describing the requirements for prevailing in a declaratory judgment action against a school, the bill's reference to an action pursuant to a racially discriminatory policy is not intended to create any inference that a single act of discrimination, without more, could not constitute evidence of a racially discriminatory policy.

Attorneys fees

The bill authorizes the district court to award costs and reasonable attorneys fees to a school prevailing in a declaratory judgment proceeding brought by the Attorney General. The committee anticipates that the courts will not award attorneys fees where circumstances would make such an award unjust. However, it is anticipat-

ed that the courts will take into account in making this determination the financial burden that may be imposed on a private school in defending against a declaratory judgment action under this bill.

Discontinuance of racially discriminatory policy

The bill provides that a school against which a declaratory judgment has been rendered may, at any time after one year from the date of the judgment, file with the district court a motion to modify the judgment to include a declaration that the school no longer follows a racially discriminatory policy. This motion must contain affidavits that:

(1) Describe with specificity the ways in which the school has abandoned its previous racially discriminatory policy;

(2) Describe with specificity the ways in which the school has taken reasonable steps to communicate its present policy of nondiscrimination to students, to faculty and school administrators, and to the public in the area that it serves;

(3) Avers that the school has not, during the preceding year, (a) committed a racially discriminatory act against an applicant or student pursuant to a racially discriminatory policy, (b) made a communication expressing that it follows a racially discriminatory policy against applicants or students, or (c) engaged in a pattern of conduct intended to implement a racially discriminatory policy and committed some act in furtherance of such policy; and

(4) Avers that the school has complied with the requirement that it indicate its nondiscriminatory policy in its published bylaws, advertisements, admission applications, etc., during the preceding year.

The motion by the school will be granted unless the Attorney General establishes that:

(1) An affidavit submitted by the school in support of the motion is false;

(2) The school has, within the preceding year, (a) committed a racially discriminatory act against an applicant or student pursuant to a racially discriminatory policy, (b) made a communication expressing that it follows a racially discriminatory policy against applicants, or students, or (c) engaged in a pattern of conduct intended to implement a racially discriminatory policy and committed some act in furtherance of such policy; or

(3) The school has not, in fact, complied with the nondiscrimination publication or communication requirements.

The committee anticipates that the requirement that a school take reasonable steps to communicate its nondiscriminatory policy will be satisfied if the school takes vigorous steps to make known its nondiscriminatory policy, which steps are reasonable in light of the school's financial resources.

Period of disallowance of tax credits

No credits will be allowed for amounts paid to a school during the period in which a declaratory judgment against the school is in effect. Generally, a declaratory judgment is in effect beginning with the calendar year in which it is entered by the district court,

whether or not it is appealed. Unless the judgment against the school is reversed, the period of disallowance ends only if a motion to reinstate credits is granted by the district court. In that event, credits are again allowed beginning with the year the motion is granted by the district court, whether or not that motion is appealed.

If a subsequent judgment (or appellate order requiring entry of judgment) is entered against the school, the reinstatement order will cease to be in effect. Similarly, if an order reinstating credits is reversed or vacated, that reinstatement order will cease to be in effect, and entry of the order reversing or vacating the reinstatement order will be treated as if it were a subsequent declaratory judgment against the school. In either event, credits will again be disallowed indefinitely, beginning with the year in which the subsequent judgment (or appellate order requiring entry of judgment) or order reversing or vacating a reinstatement order is entered.

If an appellate order reversing a reinstatement order is subsequently reversed, and the reinstatement order is upheld, then credits will be allowable from the year the valid reinstatement order was originally entered. In that event, the statute of limitations for filing a refund claim will be extended.

If a district court judgment in favor of a school is reversed on appeal, the period of disallowance begins with the earlier of the calendar year in which a subsequent district court judgment against the school is entered on remand, or the calendar year in which the court of appeals entered an order that would require the district court to enter such a judgment. This rule is intended to prevent a delay in the beginning of the period of disallowance if a stay of such an appellate order is entered pending further proceedings.

If all judgments against a school entered in an action are subsequently reversed or vacated, all credits disallowed on the basis of any district court judgments in the action will be allowable. However, credits for that period will not be allowed until the action is finally concluded. Accordingly, the period for filing a refund claim will be extended.

If a declaratory judgment against a school (or an appellate order requiring such a judgment) is entered but stayed, credits will not be disallowed until the stay is vacated, but the period of disallowance will begin with the year in which the judgment or order was entered. Accordingly, the statute of limitations for determining deficiencies will also be extended in that event.

The committee anticipates that stays will be entered only in extraordinary circumstances where the school demonstrates the traditional requirements for obtaining a stay pending appeal.[5] In the committee's view, this strict standard is appropriate, inasmuch as the effect of a stay in this context is tantamount to the effect of an order restraining the assessment or collection of taxes.[6]

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[5] See *Virginia Petroleum Jobbers Association* v. *Federal Power Commission*, 104 App. D.C. 106, 259 F.2d 921 (1958).

[6] See Section 7421, Internal Revenue Code of 1954, *Enochs* v. *Williams Packing & Navigation Co.*, 370 U.S. 1 (1962).

Enforcement responsibility

In connection with declaratory judgment proceedings in the district court, the bill vests the Attorney General with exclusive authority to investigate and, prior to bringing an action, to determine whether an educational institution is following a racially discriminatory policy under the provisions of this bill. However, the Secretary of the Treasury is directed to provide the Attorney General with any information relevant to his or her investigations and actions which the Attorney General requests or the Secretary wishes to provide.

Reports by Attorney General

The bill requires the Attorney General to report annually to the Congress on the nondiscrimination enforcement activities provided for by the bill. These reports should include a description of all activities undertaken pursuant to petitions filed with the Attorney General.

Credit not to be considered as Federal assistance

The bill provides that tuition tax credits will not constitute Federal financial assistance to educational institutions or the recipients thereof.

D. Effective Date

The bill is generally effective for tuition payments made after July 31, 1983; however, no credits will be allowed until either a final decision by the Supreme Court of the United States or an Act of Congress prohibits the granting of a tax exemption under section 501(a) of the Internal Revenue Code by reason of section 501(c)(3) to private educational institutions that maintain a racially discriminatory policy or practice as to students. Credits will be effective on a prospective basis after such final decision or Act of Congress.

The issue of whether schools with racially discriminatory policies may qualify for tax-exempt status was decided recently in *Bob Jones* v. *U.S.*, 51 U.S.L.W. 4593 (May 24, 1983), which held that racially discriminatory schools cannot qualify as tax-exempt organizations under Code section 501(c)(3).

III. COSTS OF CARRYING OUT THE BILL AND VOTE OF THE COMMITTEE IN REPORTING S. 528

Budget Effects

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the budget effects of S. 528, as reported.

Budget receipts

It is estimated that the bill will reduce budget receipts by $229 million in fiscal year 1984, $491 million in fiscal year 1985, $703 million in fiscal year 1986, $726 million in fiscal year 1987, and $712 million in fiscal year 1988.

The Treasury Department agrees with this statement.

Budget outlays

The bill involves no new budget outlays.

Vote of the Committee

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the committee on the motion to report the bill. S. 528, as amended, was ordered favorably reported by a roll call vote of 11 ayes and 7 nays.

IV. REGULATORY IMPACT OF THE BILL AND OTHER MATTERS TO BE DISCUSSED UNDER SENATE RULES

Regulatory Impact

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of this bill.

A. *Numbers of individuals and businesses who would be regulated.*—The bill does not involve new or expanded regulation of individuals or businesses.

B. *Economic impact of regulation on individuals, consumers and businesses.*—The bill does not involve economic regulation.

C. *Impact on personal privacy.*—This bill does not relate to the personal privacy of individual taxpayers.

D. *Determination of the amount of paperwork.*—The bill will increase paperwork for educational institutions to which the payment of tuition is eligible for tax credit and for individuals who are eligible to claim the credit. This additional paperwork results from the bill's requirement that eligible educational institutions must file annual nondiscrimination statements with the Treasury Department and that individuals claiming the credit must attach those statements to their Federal income tax returns.

Consultation with Congressional Budget Office

In accordance with section 403 of the Budget Act, the committee advises that the Director of the Congressional Budget Office has examined the committee's budget estimates and agrees with the methodology used and the resulting dollar amounts (as shown in Part III of this report).

The Director submitted the following statement:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 7, 1983.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 403 of the Budget Act, the Congressional Budget Office has examined the Educational Opportunity And Equity Act of 1983, S. 528, as ordered reported by the Committee on Finance. This bill will provide a taxpayer with qualified dependents a nonrefundable credit for 50 percent of tuition expenses paid to private elementary and secondary schools. The credit would be capped at $100 in 1983, $200 in 1984, and $300 in 1985 and subsequent years. The credit is phased down

for taxpayers with adjusted gross incomes of over $40,000, and no credit is allowed for taxpayers with adjusted gross incomes of $50,000 or more. The bill generally applies to tuition paid or incurred after July 31, 1983, for taxable years beginning after December 31, 1982.

The bill does not provide for any new or increased budget authority, but it does provide for a new tax expenditure.

The Congressinal Budget Office has reviewed and concurs with the estimates supplied by the Staff of the Joint Committee on Taxation. The bill will reduce budget receipts and increase tax expenditures by $229 million in fiscal year 1984, $491 million in fiscal year 1985, $703 million in 1986, $726 million in fiscal year 1987, and $712 million in fiscal year 1988.

Sincerely,
ALICE M. RIVLIN, *Director.*

New Budget Authority

In compliance with section 308(a)(1) of the Budget Act, and after consultation with the Director of the Congressional Budget Office, the committee states that the bill does not create new budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act with respect to tax expenditures, and after consultation with the Director of the Congressional Budget Office, the committee makes the following statement:

The bill creates a new tax expenditure by providing a credit against income tax for individuals who pay tuition to eligible educational institutions. The amount of the tax expenditure is shown in Part III, above.

V. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In the opinion of the committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of subsection 4 of Rule XXIX of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill, S. 528, as reported by the committee).

VI. ADDITIONAL VIEWS OF MR. CHAFEE

The Finance Committee has spent a great deal of time discussing the tuition tax credit proposal this year. We conducted a full day of hearings and spent four days in markup on the bill. This provided the opportunity for a careful examination of the arguments both for and against the proposal. I have been opposed to the bill from the outset but have found the discussion useful and am now even more firmly convinced that this legislation is not in the best interests of our country.

The language of the bill states that its purpose is to "enhance equality of educational opportunity, diversity and choice for Americans." The proponents have argued that we need tuition tax credits in order to avail parents of the freedom to select their childrens' schools. It is said that we need tuition tax credits in order to foster competition between public and private schools and that improved quality of education will result.

I believe strongly that parents should have a right to send their children to private schools. But it has never been and should never be the Federal Government's responsibility to subsidize that freedom to choose with revenues from the taxpayers. Such a diversion of resources could profoundly weaken the public schools which form the backbone of our country's educational system. We have not seen a shred of evidence to prove that such competition indeed improves educational quality.

In addition, the proponents of this legislation have offered no evidence indicating that private schools need this support in order to survive. According to the National Center for Education Statistics, private school enrollment as a percentage of the total elementary and secondary school enrollment in the United States has increased in the last decade.

This legislation makes a mockery of the purposes stated in the bill. How can there be equality of educational opportunity in a program whose obvious result is the establishment of two separate and vastly *un*equal educational systems? How can there be true competition between players who don't start out on a level playing field?

These tax credits will stimulate the so-called "skimming" process by which many of our brightest and highly motivated students will be given an incentive to desert the public school system. It is these students that our public schools need most, since they help provide balance and bolster satisfaction and support for the system.

The bill does little to foster equality of opportunity but does promote choice—choice for the private schools to accept or reject the students they wish. This is not a choice which the public schools have. Repeated attempts were made in this committee to make the bill foster true equality by extending to private schools—the schools which this bill subsidizes—the same responsibilities which government has conferred upon the public schools.

Public schools supported by the Federal Government are mandated to be open to all, regardless of religion. Private schools are not. Public schools must provide services to accommodate handicapped children. Private schools need not. Public schools under Title IX must provide equal programs for female students. Private schools need not. Public schools in many States are directed to provide bilingual education programs. Private schools are not. Public schools abide by compulsory attendance, teacher certification, accreditation, curriculum and graduation requirements. Private schools do not. Public schools have no "intent" standard to hide behind in racial discrimination cases. In this bill, private schools do.

One after another, amendments to make this bill apply more equally were rejected. And what are we left with? We are encouraging the development of two very different school systems in the United States. One for the bright, the able, the wealthy, the nonhandicapped, the well-disciplined, and those proficient in English. The balance will be in the public school system. I believe this has deeply disturbing consequences for the future of education in our country.

This legislation is also wrong from an economic standpoint. We have been extremely concerned here in the Finance Committee with the need to control spending and raise taxes in order to contain the massive deficit facing our nation—currently estimated at a baseline figure of $200 billion. We all know that there can never be a true recovery until this deficit is reduced. The Administration estimates that this legislation will cost more than $2 billion over the next four years. The cost could actually be much higher when we take into account the bill's incentive to enroll in private schools. It is totally unacceptable for us to be embarking upon this major new tax expenditure and entitlement program when the country clearly cannot afford it.

S. 528 is ill-advised tax policy for the United States, and as education policy it represents a radical departure from our nation's commitment to maintaining a quality public school system. Its ramifications are significant and deeply troubling.

VII. ADDITIONAL VIEWS OF MR. DURENBERGER

I am pleased to have the opportunity to support S. 528 and the concept of tuition tax credits. I commend the Chairman for bringing this bill before the Committee.

I represent the State of Minnesota which has a long tradition of excellence and innovation in education, a tradition I am proud to share. We understand that dollars invested in education today return many times their value in benefits to society. Education is the key to America's future, the thread that binds the fabric of our society.

Recent reports have made us painfully aware that the thread has begun to unravel and we have found our educational system threatened. Forces from within our society and from without have challenged America's claim to the finest learning traditions in the world. No longer can we boast that we produce the best teachers, scientists, and mathematicians. Tomorrow our place in the international economic community may be imperiled because we lack the linguistic abilities to compete. Many youngsters have been faced with inadequate curricula and our school systems have been threatened with economic and demographic crises.

How, during these troubled economic times, can we begin to reweave the fabric of education in the United States? This task, while not an easy one, challenges us to be creative, to look to the future, and to respect the integrity and commitment of the vast majority of Americans to our youth.

I want to commend Senators Packwood and Moynihan for their continuing commitment to improving America's educational system. I also applaud President Reagan for making the quality of elementary and secondary education and the issue of tuition tax credits a priority in his administration. Although I am supporting the administration's bill, I support tuition tax credits for reasons which differ from those espoused by the President. I do not view tuition tax credits as simply a mechanism to assist private and parochial school students and their parents. I support tuition tax credits because I believe they are the most efficient and effective national means to improve the educational opportunities of all children by fostering choice and competition in our elementary and secondary educational system.

I believe if Americans were given greater opportunities for educational selection, they would become more involved in the educational process and would make responsible decisions. Tuition tax credits are an effective mechanism to strengthen educational delivery systems—both governmental and non-governmental—by extending the concept of consumer choice.

Consumer choice has proven in other important public services to ensure diversification and innovation by those who are professionally trained to deliver services. Choice works in both the pri-

vate and public sectors as competition for consumer support develops creative and improved services. Teaching continues to be the strongest professional resource in our educational system. Tuition tax credits, and other innovative concepts, could provide teachers with an incentive to develop non-traditional approaches to service delivery, along with a clear benchmark by which they can judge the success or failure of those efforts.

Tuition tax credits are not a trade-off between public and private education. Effective consumer choice can only exist in an environment where both systems are strong. Consumers must have access to alternatives, not only between government and non-government systems, but more importantly, among differing systems within each sector. Tuition tax credits are not an excuse to weaken traditional governmental support for the "public school" system. On the contrary, a commitment to consumer choice means a recommitment to the principles underlying that support.

But if tax credit legislation is to accomplish these goals, it cannot be restricted to families with children enrolled in non-governmental organizations. The program must be structured as governmental tax policy aid to all children—not just those who patronize a certain class of institution.

As part of national education incentives, I will therefore offer an amendment to extend the tax credit to families with children in public schools who are paying tuition. In 1978–1979, the State of Minnesota received over $2 million in tuition payment from parents with children in the public school system. And with local and state governments under considerable financial strain, the use of tuition to ensure adequate funding for government-financed schools is likely to continue.

The Minnesota experience has proven that a tax credit or deduction for both public and private school tuition is necessary not only for the success of the program, but is a constitutional necessity.

In order to withstand constitutional challenges predicated upon the Establishment Clause of the Constitution, legislation must satisfy three criteria. First, the legislation must have a secular purpose—in this case, to benefit and improve our educational system. Second, there cannot be excessive governmental entanglement—the present tax proposal should not require excessive government involvement.

Finally, legislation will be analyzed to determine its primary effect. In order, to ascertain the primary effect of government action, the courts have looked at the breadth of the class of individuals benefited. S. 528, as currently written, will benefit only families with children in private and parochial schools—thus, subjecting the legislation to serious constitutional objections.

If this proposal were expaned to include public school tuition, the class of students, potentially, would be greatly expanded beyond those attending sectarian institutions. Minnesota, whose educational tax deduction law is currently being considered by the United States Supreme Court, in *Mueller* v. *Allen,* 514 F. Supp. 998 (D. Minn. 1981), has emphasized the Constitutional significance of including both public and private school expenses in that law.

> The deduction is allowable to all taxpayers who have dependents in elementary and secondary schools, public or nonpublic, religiously affiliated or not. Of particular importance constitutionally are the benefits available to public school parents. (Brief of Respondents)

Although it is true that there are currently a limited number of public school parents who would benefit from tuition tax credits, such a provision would ultimately result in increased use of tuition by public schools. In time, public school parents would become the primary beneficiaries of this law.

The Constitution, through the Fifth and Fourteenth Amendments, guarantees the right to equal protection of the law. If individuals in the same class receive different treatment under the law there must be a rational basis for such discrimination. Presently, certain parents with children in public schools are paying tuition for attendance (i.e., parents whose children attend schools outside their home district boundaries). S. 528 allows tuition tax credits only for those children in parochial and private schools— not those attending public schools. As a result, the legislation is also subject to constitutional objection on Equal Protection grounds. I fail to see any rational distinction between parents who are paying tuition and property taxes and sending their children to public schools and parents who pay tuition and property taxes and send their children to private or parochial schools.

The choice must rest with the family and it is my intention to continue to work to see this legislation extend, ultimately, to public and private school tuition, fees, books and transportation.

Similarly, I do not believe this legislation should be limited to elementary and secondary education. If we are truly going to expand consumer choice in education, this proposal should be extended to post-secondary education as well. While we have made progress in expanding consumer choice in higher education, through loan and grant programs, these are not the most efficient means of doing so.

Our national grant and loan programs, because of their administrative costs, reduce the actual amount received by the consumer and are therefore a less efficient use of federal revenue. It is my hope that we apply tuition tax credits to higher education as a more efficient supplement to loan/grant programs and I will continue to work toward that goal.

It is essential that we ensure that tuition tax credits cannot be used as a mechanism to foster discriminatory educational institutions. The Federal Government certainly cannot restrict the right of private or religious institutions to espouse whatever doctrines they choose, but a tax advantage is a privilege, not a right. It is fully proper for government to condition access to that privilege on compliance with primary national policy, namely the policy of nondiscrimination.

I sincerely hope that the proposed tuition tax credit legislation is an introduction to further dialogue—a starting point from which we can explore the many opportunities for American education and a chance to provide consumers with choices in education.

The 1980s are, and will continue to be, challenging for America. Our educational system must be at the forefront as we move from an industrial-based economy to a service-oriented one. We cannot shrink in fear from that challenge, but instead must meet it head on.

As indicated by the conclusions of the Minneapolis/St. Paul Citizen's League Study of Education, creativity is the key to the future.

> We need a climate which encourages, defends, and rewards innovative results. We need flexibility to contract with other providers for certain services, to match teachers to the instructional path. There is enormous unused creative potential among today's teachers and frustration which can be converted to renewed commitment if we had the courage to remove the barriers, many of which are firmly fixed in existing policies and procedures, now discouraging more individual responsibility for improving performance.

Expansion of choice, through programs such as tuition tax credits, will ultimately return preeminence to education to the American public.

VIII. ADDITIONAL VIEWS OF MR. MOYNIHAN

The decision by the Committee to report S. 528, The Educational Opportunity and Equity Act of 1983, represents a significant step toward addressing what I have often described to be a "matter of justice" for the over 5 million students enrolled in the nation's elementary and secondary nonpublic schools.

I have been a strong proponent of tuition tax credit legislation, having introduced such measures in the 95th, 96th, and 97th Congresses. The first bill I introduced (with Senator Packwood) upon coming to the Senate proposed the creation of a tuition tax credit plan not unlike the measure the Finance Committee has recommended to the full Senate for enactment. In 1978, Senator Packwood and I chaired 3 full days of hearings on an elementary, secondary, and postsecondary tuition tax credit measure we had introduced. Tuition tax credit legislation passed the House of Representatives that year and our proposal nearly passed the Senate as well. Senator Packwood and I reintroduced our bill in the 96th Congress but no action was taken on it during that session.

This has not been a business for the short winded. In 1961, I wrote an article for *The Reporter* entitled "How Catholics Feel About Federal School Aid." In it, I addressed the upcoming debate over the question of whether Federal aid ought to be provided to education. I emphasized that if such aid were to be forthcoming, the question of providing such aid to the Catholic schools (at the time they enrolled over 85 percent of the students attending nonpublic schools at the elementary and secondary levels) would need to be resolved if Federal aid to education was to become a reality. As it happened, I was to become further involved with this matter while a member of the administration of President Kennedy. President Kennedy had proposed, in 1961, the creation of a $2.3 billion program of grants to States for classroom construction and for increasing teachers' salaries. The President's advisers, however, opposed making such aid available to church-related schools. Having failed to include provisions for the participation of the church-related schools, the churches opposed the measure and this led in part to it not being approved by Congress. Similar efforts the following 2 years were unsuccessful as well. In 1964, after extensive negotiations, in which I was the mediating party, the issue of Federal aid to education including church-related schools was resolved as between the Johnson administration and the advocates of aid to all schools. It fell to me that summer to draft the Democratic Party platform embodying that agreement. It read:

> New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and to the extent permitted by the Constitution, to all schools.

President Johnson signed the Elementary and Secondary Education Act of 1965 on April 11 of that year. Included among its many provisions was a promise that nonpublic schools would receive their fair share of Federal assistance provided to education. Title I of that Act provides:

> That to the extent consistent with the number of educationally deprived children in the school district of the local education agency who are enrolled in private elementary and secondary schools, such agency has made provisions for including special educational services and arrangements (such as dual enrollment educational radio and television, and mobile educational services and equipment) in which such children can participate.

In the main this was intended to mean that Title I services would be provided to needy school children, regardless of where they attended school. Instructional equipment and other aid authorized by the Act was to be treated in a similar fashion. But the promise of 1965 has not been kept. In the 17 years since Congress passed and President Johnson signed that landmark measure into law, participation by the nonpublic sector has never equaled the comitment made. Successive Congresses and administrations have been either unable or unwilling to take whatever steps are needed to see that nonpublic schools receive their fair share. Given this history of failed promises, and given what I view as the desirability of encouraging the diversity and pluralism which the nonpublic sector brings to education in this Nation, I believe it entirely appropriate for Congress to enact a system of tuition tax credits designed to assist those parents who choose to send their children to nongovernmental schools.

Such assistance has been promised repeatedly in recent years by both the Democratic and Republican Parties and their Presidential candidates. In 1972, the Democratic Party Platform said:

> The next Democratic Administration should channel financial aid by a constitutional formula to children in nonpublic schools.

The late Hubert H. Humphrey, while campaigning for his party's nomination for the presidency in 1972, expressed his support:

> I favor the creation of a system where parents would be able to receive a tax credit when their children attend approved private schools.

George S. McGovern in 1972 announced his:

> Support of the tax credit approach to aid the parents and children attending parochial and other bona fide nonpublic schools.

More recently, in 1976, the Democratic Party Platform in a plank I drafted stated:

> The Party renews its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in nonsegregated schools in

> order to insure parental freedom in choosing the best education of their children.

Again, in 1980, both parties committed themselves to aiding the nonpublic schools. The Democratic Platform plank, which again I drafted said:

> Private schools, particularly parochial schools, are also an important part of our diverse educational system. The Party accepts its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in schools which do not racially discriminate and excluding so-called segregation academies.

The Republican Platform said:

> * * * we reaffirm our support for a system of educational assistance based on tax credits that will in part compensate parents for their financial sacrifices in paying tuition at the elementary, secondary, and postsecondary level.

When, in 1982, President Reagan sent his proposal for tuition tax credits to the Congress, I commended him for being the first American President to propose such legislation. This was indeed a momentous occasion. While other candidates had pledged to do so, President Reagan was the only one in a position to carry out his campaign promise. Thus, on July 16, with only a few months remaining in the 97th Congress (and with little assurance that a consensus could be reached) the Finance Committee began hearings on S. 2673, the administration's tuition tax credit plan, introduced by my colleague, Senator Dole, the distinguished chairman of the committee.

On September 23, the committee voted to report out the bill as an amendment in the form of a substitute for H.R. 1635. At the time, I had hoped our colleagues in the Senate would have the chance to review both the bill and the testimony compiled from hearings during the previous 5 years. I was confident that having done so, they would agree with the judgment of the committee. But, alas, our efforts were to no avail, and the 97th Congress came to adjournment without the full Senate having considered the tuition tax credit measure.

I reiterate this history to make the point that assistance to education, including aid to the nonpublic sector, is a well-established idea. It has been endorsed repeatedly by many both in and outside of Government. Still, as I have remarked at the hearings Senator Packwood and I have held on this subject during the last three Congresses, many remain of the view that providing any assistance to nonpublic schools is a concept somehow foreign to the American experience. I believe that our hearings have had substantial educational value in this regard. They have, in my view, dispelled the myth that government aid to private schools is somehow a new concept or that the Founding Fathers believed that the First Amendment barred any assistance to church-related schools. There is a history here and if our hearings have accomplished anything they have served to establish the important historical and contemporary role that nonpublic schools have played in our society.

Let me emphasize the two major concerns I have had with the tuition tax credit legislation that has come before this committee previously. First, no student attending a school that practices illegal discrimination would benefit from the availability of tuition tax credits. This bill, like the bill that came out of the Finance Committee last year, directs the Attorney General upon a finding of good cause to seek declaratory judgments against schools which discriminate. Such an action could be brought in response to a complaint of discrimination filed by individuals or upon evidence presented showing that a school was following a racially discriminatory policy. If the Attorney General brought such an action and prevailed, the parents of any student attending the school would be ineligible for tuition tax credits.

In addition, the tuition tax credit program would not go into effect until either a decision of the U.S. Supreme Court or a future act of Congress prohibits the granting of a tax exemption under section 501(c)(3) of the Internal Revenue Code to private educational institutions maintaining a racially discriminatory policy or practice as to students. (This issue has, in fact, been resolved by the May 24, 1983 Supreme Court decision in *Bob Jones University* v. *United States*. By a resounding margin of 8–1, the Supreme Court affirmed the authority of the Internal Revenue Service to revoke the tax-exempt status of private educational institutions that practice racial discrimination. The Reagan Administration has since publicly agreed to comply with the Court's decision. Hence, under this legislation, no tax credits will be allowed for payments made to private educational institutions, including church-supported schools, ruled ineligible for tax-exempt status by the IRS.)

Second, I continue to maintain that tuition tax credits must be refundable so as to benefit low-income families who choose to send their children to nonpublic schools. Members of the committee agreed with me last year when we considered the President's bill, and our intent at the time was to offer a committee amendment on the floor of the Senate. I am pleased that members of the committee once again share this view and that this matter will indeed be addressed in the form of a committee amendment when S. 528 reaches the floor of the Senate.

The legislation we are reporting out of committee is intended to ensure that students in nonpublic schools receive a fair share of assistance from the Federal Government. The public schools do and must come first; the vast bulk of current Federal education expenditures goes to the public schools and their students. This is as it should be. But that does not mean we should ignore the nonpublic schools and their students. Rather, we should strive to accord just and equitable treatment to nonpublic education, to treat private school students the same as public school students, and finally to fulfill the promise we made in 1964. I continue to regard tuition tax credits as a reasonable and desirable means of achieving these objectives, and urge my colleagues to give our proposal the consideration it merits.

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